

THERE ARE WAYS TO FIGHT FOR THE RETURN OF YOUR SECURITY DEPOSIT

QUESTION: I moved out of my apartment two weeks ago and my landlord hasn't returned my security deposit.

ANSWER: Under California law, your landlord has three weeks from the date you move out, to either return your security deposit or send you an itemized accounting of how your deposit was used.

The landlord may retain your deposit for four purposes:

1. for unpaid rent (which includes moving without adequate notice);
2. for cleaning, if the rental unit is not as clean as when it was rented;
3. for repair of damages, other than wear and tear, caused by the tenant or his guests; and
4. for the cost of restoring or replacing furniture or other items of personal property (such as keys), if the lease or rental agreement provides for it.

If you haven't received either your deposit or an itemized statement within three weeks, you should write to your landlord (keep a copy for your records), remind them of the three-week requirement and ask them to return your deposit immediately.

If you receive a list of deductions from your deposit, review it carefully. Do you disagree with some or all of the deductions? If so, you should write to your landlord (again, keep a copy for your records), and state the reasons why you believe the deductions are improper, and ask them to return the amount that you feel should be returned.

Be prepared to compromise. If you cannot reach an agreement, however, you have the option of going through mediation or filing an action in small claims court.

QUESTION: Who do I contact if I want to go through mediation?

ANSWER: The District Attorney's Office offers landlord/ tenant mediation services through the Consumer Mediation Section, which has operated continuously since 1979. You may go into the office which is located on the 3rd floor of the Hall of Justice at the County government Center, 800 S. Victoria Ave., Ventura or call the Consumer Mediation Section at (805) 654-3110.

The Consumer mediators are available from 8 a.m. to noon and from 1 to 5:00 p.m. weekdays. There is no charge for this service.

A consumer mediator will ask you to explain your problem, and then have you fill out a form with the details of your dispute and resolution, which you are seeking.

The landlord will be sent a copy of the complaint and asked to respond to the mediator regarding the issues in your dispute.

The mediator will try to obtain an adequate explanation for the charges, including receipts where appropriate.

He or she will attempt to negotiate a settlement that will keep both parties out of court. This is a voluntary process, however, if the landlord does not wish to cooperate, you may have no choice but to go to small claims court.

QUESTION: Am I entitled to interest on my deposit?

ANSWER: You are not entitled to interest, by law, on your deposit; however, it is possible to negotiate an agreement with your landlord to pay you interest. For your protection, this would have to be in your lease or rental agreement. Should you go to small claims and receive a judgment for the return of your deposit, the judgment accrues interest at the rate of 10 percent annually.

QUESTION: Can I sue for anything else besides the amount of the security deposit that was withheld?

ANSWER: If you can convince the judge that the landlord refused to return your deposit to you, not because you have an honest dispute but because the landlord exercised “bad faith,” you may be able to receive up to \$600 as a penalty in addition to any other damages that you sustained.

This penalty is not-routinely awarded and a judge will order a penalty to be paid only when the facts of the case warrant it.

QUESTION: Besides landlord/tenant disputes, are there any other kinds of disputes that the District Attorney’s Consumer Mediation Section can handle?

ANSWER: Yes, the Consumer Mediation Section either handles or answers questions regarding most types of consumer/merchant disputes. These would include automobile repair, billing disputes, mail or telephone solicitations, insurance, mail order, product repair and service contracts, undelivered or unsatisfactory merchandise, and warranty disputes.

In 1999, the Consumer Mediation Section was able to recover approximately \$194,000 in voluntary restitution to consumers.

For further information or questions on security deposits, you can contact Franco Villamor, Housing Referral / Set – Aside Specialist, telephone 982-3738.